

GAMETEK LLC V. FACEBOOK, INC., ET AL.
CASE NO.: 3:12-cv-501-BEN-RBB
JOINT CLAIM CONSTRUCTION WORKSHEET FOR U.S. PATENT NO. 7,076,445

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF’S PROPOSED CONSTRUCTION	DEFENDANTS’ PROPOSED CONSTRUCTION	COURT’S CONSTRUCTION
1. A method of managing the operation of a game which includes a game environment, and is programmed to control a gaming action for at least one of a plurality of users, said managing method using a programmed computer to effect the following steps: a) tracking the activity of the at least one user in the course of the gaming action ; b) permitting the at least one user to create an account for receiving a consideration of the at least one user, the at least one user having a set of demographics ; c) determining the eligibility of the at least one user to purchase at least one of a plurality of game objects, said eligibility determining comprises the following sub steps: i) permitting the at least one user to select the at least one game object, ii) setting the purchase price of the at least one game object, and iii) comparing the account balance of the at least one user's consideration with the set price of the at least one game object and, determining if the balance of the user's consideration is not less than the set price, determining the at least one user to be eligible to purchase the at least one game object; d) displaying in the game environment a purchase price of the at least one game object; e) presenting to the at least one user an offer to purchase the game object dependent upon a group of game parameters comprising the tracked activity of the at least one gaming action of the at least one user and, the one game environment or the one set of demographics of the least one user f) permitting the at	N/A	gaming action: Ordinary meaning; no construction necessary. Alternatively, acts, activities or things done that are part of the game permitting the at least one user to create an account for receiving a consideration of the at least one user, the at least one user having a set of demographics: See below re “consideration,” “set of demographics” and “demographics.” Otherwise, ordinary meaning; no construction necessary. the at least one user having a set of demographics: The at least one user has a set of characteristics such as age,	gaming action: “the user’s playing of the game” '445 Patent at Abstract, Fig 2, Fig 4A; col. 1:54-2:8; 2:25-27; 5:13-17; 5:30-38; 8:20-31; Claims 2 - 4, 6, 7, 9, 10, 11, 12. '445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 6/17/02 Amendment & Response, p. 10, 12; 6/9/03 Appellant’s Brief, pp. 2-3; 9/4/03 Examiner’s Answer, pp.5-6; 9/7/04 Reply, pp.10-21; 10/6/05 Examiner Interview	gaming action: permitting the at least one user to create an account for receiving a consideration of the at least one user, the at least one user having a set of demographics: the at least one user having a set of demographics: the one set of demographics: purchase: account: consideration:

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least one user to purchase the at least one game object at the set purchase price without interrupting the gaming action of the at least one user ; and g) supplying the at least one purchased game object to the at least one user without interrupting the gaming action of the at least one user and incorporating the game object into the game.		<p>sex, etc.</p> <p>the one set of demographics: see construction of “the at least one user having a set of demographics,” above</p> <p>purchase: To obtain using various currency means, including credit cards, e-cash, e-gold, other Internet enabled currency, and secondary monetary sources, such as, charges to phone or utility bill, transferring credit on pre-paid phone cards, or transit passes, or through conventional payment methods, such as checks, money-orders or cash.</p> <p>account: Ordinary meaning; no construction necessary.</p> <p>consideration: That which is used to make a purchase within the game. See above re</p>	<p>Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner’s Reason’s for Allowance, pp. 1-7.</p> <p>permitting the at least one user to create an account for receiving a consideration of the at least one user, the at least one user having a set of demographics: “permitting the at least one user to create an account for storing a consideration balance, where the account maintains two or more types of user characteristics (such as age or income) that associate the account with one or more consumer markets”</p> <p>’445 Patent at Abstract, Fig 1B, Fig 2, Fig 3, Fig 4, fig 4A, fig 5, col. 1:17-26; 1:30-2:46; 2:60-3:20; 4:58-5:2; 5:13-17; 5:30-38; 6:12-15; 7:8-11; 7:62-</p>	<p>permitting the at least one user to purchase the at least one game object . . . without interrupting the gaming action of the at least one user:</p> <p>interrupting:</p> <p>interrupting the gaming action of the at least one user:</p> <p>supplying the at least one purchased game object to the at least one user without interrupting the gaming action of the at least one user:</p> <p>order of claim elements:</p>

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF’S PROPOSED CONSTRUCTION	DEFENDANTS’ PROPOSED CONSTRUCTION	COURT’S CONSTRUCTION
		<p>purchase.</p> <p>permitting the at least one user to purchase the at least one game object . . . without interrupting the gaming action of the at least one user: See above re “purchase” and “gaming action” and see below re “interrupting.” Otherwise, ordinary meaning; no construction necessary.</p> <p>interrupting: Ordinary meaning; no construction necessary. Alternatively, ceasing or stopping for a period of time</p> <p>interrupting the gaming action of the at least one user: Ordinary meaning; no construction necessary. Alternatively, interrupting (see above re interrupting) the gaming action (see above re gaming action) while the user</p>	<p>10:36, Claims 14, 16, 18, 19.</p> <p>’445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 2/7/03 Amendment & Response, p. 6; 3/18/03 Office Action, pp. 4-5; 6/9/03 Appellant’s Brief, pp. 2-3; 9/4/03 Examiner’s Answer, pp.5-6; 9/7/04 Reply, pp.10-21; 11/12/04 Office Action, pp. 2, 5; 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner’s Reason’s for Allowance, pp. 1-7.</p> <p>WEBSTER’S II NEW COLLEGE DICTIONARY (2001)</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
		<p>is interacting with the game.</p> <p>supplying the at least one purchased game object to the at least one user without interrupting the gaming action of the at least one user: See “purchase,” “gaming action,” “interrupting,” and “interrupting the gaming action of the at least one user” above. Otherwise, ordinary meaning; no construction necessary.</p> <p>order of claim elements: There is no requirement that steps need to be performed in any particular order, except that, as a matter of common sense: (1) activity must be tracked before there is an offer to purchase a game object dependent upon a group of game parameters comprising the tracked activity; (2) an account must be created before</p>	<p>“demographics”: “n. pl. in number). Demographic data use esp. to identify consumer markets.”</p> <p>THE AMERICAN HERITAGE COLLEGE DICTIONARY (2000) “demographics”: “The characteristics of human populations and population segments, esp. when used to identify consumer markets.”</p> <p>WEBSTER’S COLLEGE DICTIONARY (1996) “demographics”: “the statistical data of a population, esp. those showing average age, income, education, etc.”</p> <p>the at least one user having a set of demographics: “the</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
		an account balance can be compared; (3) a user must have a set of demographics before there can be an offer to purchase a game object dependent upon a group of game parameters comprising the set of demographics; (4) a purchase price for a game object must be set before it can be compared, displayed, an offer to purchase presented, or a purchase made, or before an offer to purchase a game object can be presenting to a user dependent upon the indication that the one user has sufficient consideration in its account to purchase the selected game object at the set price, or before permitting a user to purchase a game object at a set price; (5) a user must have consideration before it can be compared; and (6) a game object must exist at the time it	account maintains two or more types of user characteristics (such as age or income) that associate the account with one or more consumer markets” '445 Patent at Abstract, Fig 1B, Fig2, Fig 3, fig 4, Fig 4A, Fig5; col. 1:17-26; 1:30-2:46; 2:60-3:20; 3:45-64; 4:58-5:2; 5:13-17; 5:30-38; 6:12-15; 6:27-54; 7:8-11; 7:62-10:36, Claims 14, 16, 18, 19.. '445 Prosecution History, 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner's Reason's for Allowance, pp. 1-7. WEBSTER'S II NEW COLLEGE DICTIONARY (2001) “demographics”: “n. pl. in	

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		is supplied and incorporated into a game.	<p>number). Demographic data use esp. to identify consumer markets.”</p> <p>THE AMERICAN HERITAGE COLLEGE DICTIONARY (2000) “demographics”: “The characteristics of human populations and population segments, esp. when used to identify consumer markets.”</p> <p>WEBSTER’S COLLEGE DICTIONARY (1996) “demographics”: “the statistical data of a population, esp. those showing average age, income, education, etc.”</p> <p>the one set of demographics: see construction of “the at least one user having a set of</p>	

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			<p>demographics,” above</p> <p>purchase: “to obtain using consideration, i.e. real or virtual currency or equivalents usable for in-game transactions”</p> <p>’445 Patent at Abstract, Fig 1B, Fig2, Fig 3, fig 4, Fig 4A, Fig5; col. 1:17-26; 1:30-2:46; 2:60-3:25; 3:27-33; 3:45-64; 4:58-5:2; 5:13-17; 5:30-38; 6:27-54; 7:8-11; 7:42-44; 7:62-10:36, Claims 14, 16, 18, 19.</p> <p>’445 Prosecution History, 6/17/02 Amendment & Response, p. 10, 12; 3/18/03 Office Action, pp. 4-5; 6/9/03 Appellant’s Brief, pp. 2-3; 9/4/03 Examiner’s Answer, pp.5-6; 9/7/04 Reply, pp.10-21;</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			<p>11/12/04 Office Action, pp. 2, 5; 10/6/05 Examiner Interview Summary;</p> <p>11/10/05 Amendment pp. 1-11;</p> <p>12/30/05 Examiner's Reason's for Allowance, pp. 1-7.</p> <p>account: the same account created in elements 1(b), 15(b), and 17(c), respectively</p> <p>consideration: "real or virtual currency or equivalents usable for in-game transactions"</p> <p>'445 Patent at Abstract, Fig 1B, Fig 2, Fig 3, Fig 4,, fig 4A, fig 5, col. 1:17-26; 1:30-2:46; 2:60-3:20; 4:58-5:2; 5:13-17; 5:30-38; 6:27-54; 7:8-11; 7:62-10:36, Claim 14, 16, 18, 19</p> <p>.</p> <p>'445 Prosecution History, 6/17/02 Amendment &</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			<p>Response, p. 10, 12; 3/18/03 Office Action, pp. 4-5; 6/9/03 Appellant's Brief, pp. 2-3; 9/4/03 Examiner's Answer, pp.5-6; 9/7/04 Reply, pp.10-21; 11/12/04 Office Action, pp. 2, 5; 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner's Reason's for Allowance, pp. 1-7.</p> <p>permitting the at least one user to purchase the at least one game object . . . without interrupting the gaming action of the at least one user: "permitting a user to purchase a game object without causing or making a break in the user's ability to continue playing the game"</p> <p>'445 Patent at Abstract, Fig2,</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			<p>Fig3, Fig 4, fig 4A, fig 5; col. 1:30-2:46; 2:50-3:44; 3:54-58; 5:30-38; 5:51-6:26; 6:44-47; 7:62-10:36.</p> <p>'445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 6/17/02 Amendment & Response, p. 10, 12; 6/9/03 Appellant's Brief, pp. 2-3; 9/4/03 Examiner's Answer, pp.5-6; 9/7/04 Reply, pp.10-21; 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner's Reason's for Allowance, pp. 1-7.</p> <p>WEBSTER'S II NEW COLLEGE</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF’S PROPOSED CONSTRUCTION	DEFENDANTS’ PROPOSED CONSTRUCTION	COURT’S CONSTRUCTION
			<p>DICTIONARY (2001) “interrupt”: “1. To break the harmony or continuity of.”</p> <p>THE AMERICAN HERITAGE COLLEGE DICTIONARY (2000) “interrupt”: “To break the continuity or uniformity of.”</p> <p>WEBSTER’S COLLEGE DICTIONARY (1996) “interrupt”: “1. to cause or make a break in the continuity or uniformity of (a course, process, condition, etc.).”</p> <p>U.S. Patent App. 10/418,815, 3/4/10 Office Action at p. 3; 8/4/10 Response to Office Action at pp. 8-9.</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF’S PROPOSED CONSTRUCTION	DEFENDANTS’ PROPOSED CONSTRUCTION	COURT’S CONSTRUCTION
			<p>interrupting: “causing or making a break in the user’s ability to continue”</p> <p>’445 Patent at Abstract, Fig2, Fig3, Fig 4, fig 4A, fig 5; col. 1:30-2:46; 2:50-3:44; 3:54-58; 5:30-38; 5:51-6:26; 6:44-47; 7:62-10:36.</p> <p>’445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 6/9/03 Appellant’s Brief, pp. 2-3; 9/4/03 Examiner’s Answer, pp.5-6; 9/7/04 Reply, pp.10-21; 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner’s Reason’s</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF’S PROPOSED CONSTRUCTION	DEFENDANTS’ PROPOSED CONSTRUCTION	COURT’S CONSTRUCTION
			<p>for Allowance, pp. 1-7.</p> <p>WEBSTER’S II NEW COLLEGE DICTIONARY (2001) “interrupt”: “1. To break the harmony or continuity of.”</p> <p>THE AMERICAN HERITAGE COLLEGE DICTIONARY (2000) “interrupt”: “To break the continuity or uniformity of.”</p> <p>WEBSTER’S COLLEGE DICTIONARY (1996) “interrupt”: “1. to cause or make a break in the continuity or uniformity of (a course, process, condition, etc.).”</p> <p>U.S. Patent App. 10/418,815,</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF’S PROPOSED CONSTRUCTION	DEFENDANTS’ PROPOSED CONSTRUCTION	COURT’S CONSTRUCTION
			<p>3/4/10 Office Action at p. 3; 8/4/10 Response to Office Action at pp. 8-9.</p> <p>interrupting the gaming action of the at least one user: “causing or making a break in the user’s ability to continue playing the game”</p> <p>’445 Patent at Abstract, Fig2, Fig3, Fig 4, fig 4A, fig 5; col. 1:30-2:46; 2:50-3:44; 3:54-58; 5:30-38; 5:51-6:26; 6:44-47; 7:62-10:36.</p> <p>’445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 6/9/03 Appellant’s Brief, pp. 2-3; 9/4/03 Examiner’s Answer,</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF’S PROPOSED CONSTRUCTION	DEFENDANTS’ PROPOSED CONSTRUCTION	COURT’S CONSTRUCTION
			<p>pp.5-6; 9/7/04 Reply, pp.10-21; 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner’s Reason’s for Allowance, pp. 1-7.</p> <p>WEBSTER’S II NEW COLLEGE DICTIONARY (2001) “interrupt”: “1. To break the harmony or continuity of.”</p> <p>THE AMERICAN HERITAGE COLLEGE DICTIONARY (2000) “interrupt”: “To break the continuity or uniformity of.”</p> <p>WEBSTER’S COLLEGE DICTIONARY (1996) “interrupt”: “1. to cause or make a break in</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF’S PROPOSED CONSTRUCTION	DEFENDANTS’ PROPOSED CONSTRUCTION	COURT’S CONSTRUCTION
			<p>the continuity or uniformity of (a course, process, condition, etc.).”</p> <p>U.S. Patent App. 10/418,815, 3/4/10 Office Action at p. 3; 8/4/10 Response to Office Action at pp. 8-9.</p> <p>supplying the at least one purchased game object to the at least one user without interrupting the gaming action of the at least one user: “supply the ... game object to the user without causing or making a break in the user’s ability to continue playing the game”</p> <p>’445 Patent at Abstract, Fig2, Fig3, Fig 4, fig 4A, fig 5; col. 1:30-2:46; 2:50-3:44; 3:54-58; 5:30-38; 5:51-6:26; 6:44-47; 7:62-10:36.</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			<p>'445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 6/17/02 Amendment & Response, p. 10, 12; 6/9/03 Appellant's Brief, pp. 2-3; 9/4/03 Examiner's Answer, pp.5-6; 9/7/04 Reply, pp.10-21; 11/12/04 Office Action, pp. 2, 5; 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner's Reason's for Allowance, pp. 1-7</p> <p>WEBSTER'S II NEW COLLEGE DICTIONARY (2001) "interrupt": "1. To break the harmony or</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF’S PROPOSED CONSTRUCTION	DEFENDANTS’ PROPOSED CONSTRUCTION	COURT’S CONSTRUCTION
			<p>continuity of.”</p> <p>THE AMERICAN HERITAGE COLLEGE DICTIONARY (2000) “interrupt”: “To break the continuity or uniformity of.”</p> <p>WEBSTER’S COLLEGE DICTIONARY (1996) “interrupt”: “1. to cause or make a break in the continuity or uniformity of (a course, process, condition, etc.).”</p> <p>U.S. Patent App. 10/418,815, 3/4/10 Office Action at p. 3; 8/4/10 Response to Office Action at pp. 8-9.</p> <p>order of claim elements: The claims require all the steps to be performed in order.</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
2. The method of claim 1, wherein the gaming environment comprises a video game that generates a series of background images, and the at least one selected game object is directed to act in accordance with the gaming action of the at least one user throughout the series of background images.	N/A	gaming action: see above order of claim elements: See Claim 1 above. Otherwise, there is no requirement that steps need to be performed in any order	gaming action: see above order of claim elements: The claims require all the steps to be performed in order.	gaming action: see above order of claim elements:
9. The method of claim 1, wherein the gaming action comprises the at least one user and the at least one game object that is programmed to give an advantage to the at least one user.	N/A	gaming action: see above order of claim elements: See Claim 1 above. Otherwise, there is no requirement that steps need to be performed in any order	gaming action: see above order of claim elements: The claims require all the steps to be performed in order.	gaming action: see above order of claim elements:
10. The method of claim 1, wherein the gaming action is selected from a group comprising at least one of a plurality of fighting engagements on a battlefield, one fighting engagement using weaponry, one engagement in a sport, at least one marketing of pizza, at least one user playing a role in a game environment, and/or at least one user firing a weapon.	N/A	gaming action: see above order of claim elements: See Claim 1 above. Otherwise, there is no requirement that steps need to be performed in any order	gaming action: see above order of claim elements: The claims require all the steps to be performed in order.	gaming action: see above order of claim elements:
15. A method of managing the operation of a game which	N/A	gaming action: see above	gaming action: see above	gaming action: see above

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
<p>includes a game environment, and is programmed to control a gaming action of at least one of a plurality of users, said managing method using a programmed computer to effect the following steps: a) tracking the activity of the at least one user in the course of the gaming action; b) creating an account for the at least one user for maintaining a balance of the at least one user; c) enabling the at least one user to select at least one of a plurality of game objects; d) setting the purchase price of the at least one game object; e) comparing the account balance with the set price of the at least one game object and, determining if the user's account balance is not less than the set price, then the at least one user is eligible to purchase the one selected game object; f) presenting to the at least one user an offer to purchase the game object dependent upon a group of game parameters comprising the tracked activity of the at least one user, and an indication of whether the at least one user has made a commitment of consideration to purchase the one selected game object; g) ordering the at least one selected game object without interrupting the gaming action of the at least one user; and h) supplying the selected one game object to the at least one user without interruption of the gaming action of the at least one user and incorporating the game object into the game.</p>		<p>creating an account for the at least one user for maintaining a balance of the at least one user: Ordinary meaning; no construction necessary.</p> <p>purchase: see above</p> <p>account: see above</p> <p>ordering: Ordinary meaning, no construction necessary.</p> <p>at least one user has made a commitment of consideration: The user has agreed to exchange consideration to purchase the selected game object. See above re “consideration” and “purchase.”</p> <p>consideration: see above</p>	<p>creating an account for the at least one user for maintaining a balance of the at least one user: “creating an account for storing a consideration balance of the at least one user”</p> <p>’445 Patent at Abstract, Fig 1B, Fig2, Fig 3, fig 4, Fig 4A, Fig5; col. 1:17-26; 1:30-2:46; 2:60-3:25; 3:27-33; 3:45-64; 4:58-5:2; 5:13-17; 5:30-38; 6:27-54; 7:8-11; 7:42-44; 7:62-10:36, Claims 14, 16, 18, 19.</p> <p>’445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 3/18/03</p>	<p>creating an account for the at least one user for maintaining a balance of the at least one user:</p> <p>purchase: see above</p> <p>account: see above</p> <p>ordering:</p> <p>at least one user has made a commitment of consideration:</p> <p>consideration: see above</p> <p>ordering the at least one selected game object without interrupting the gaming action of the at least one user:</p> <p>interrupting the gaming action of the at least one</p>

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		<p>ordering the at least one selected game object without interrupting the gaming action of the at least one user: See “action,” “gaming action” and “interrupting” above. Otherwise, ordinary meaning; no construction necessary.</p> <p>interrupting the gaming action of the at least one user: see above</p> <p>supplying the selected one game object to the at least one user without interruption of the gaming action of the at least one user: see above</p> <p>order of claim elements: There is no requirement that steps need to be performed in any order, except that, as a matter of common sense: (1)</p>	<p>Office Action, pp. 4-5; 6/9/03 Appellant’s Brief, pp. 2-3; 9/4/03 Examiner’s Answer, pp.5-6; 9/7/04 Reply, pp.10-21; 11/12/04 Office Action, pp. 2, 5; 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner’s Reason’s for Allowance, pp. 1-7.</p> <p>purchase: see above</p> <p>account: see above</p> <p>ordering: “the system placing an order for an object from a third party”</p> <p>’445 Patent at Abstract, Fig 1B, Fig2, Fig 3, fig 4, Fig 4A, Fig5; col. 1:17-26; 1:30-2:46; 2:60-3:25; 3:27-33; 3:45-64; 4:58-5:2; 5:13-17; 5:30-38; 6:27-54; 7:8-11; 7:42-44;</p>	<p>user: see above</p> <p>supplying the selected one game object to the at least one user without interruption of the gaming action of the at least one user: see above</p> <p>order of claim elements:</p>

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
		activity must be tracked before there is an offer to purchase a game object dependent upon a group of game parameters comprising the tracked activity; (2) an account must be created at or before it has a balance and before there is a determination of sufficient consideration in an account to purchase; (3) a purchase price for a game object must be set before an offer to purchase a game object can be presented to a user dependent upon whether the user has made a commitment of consideration to purchase the one selected game object; and (4) a game object must exist at the time it is supplied and incorporated into a game.	7:62-10:36, Claims 14, 16, 18, 19. '445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 6/17/02 Amendment & Response, p. 10, 12; 3/18/03 Office Action, pp. 4-5; 6/9/03 Appellant's Brief, pp. 2-3; 9/4/03 Examiner's Answer, pp.5-6; 9/7/04 Reply, pp.10-21; 11/12/04 Office Action, pp. 2, 5;10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner's Reason's for Allowance, pp. 1-7. at least one user has made a	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF’S PROPOSED CONSTRUCTION	DEFENDANTS’ PROPOSED CONSTRUCTION	COURT’S CONSTRUCTION
			<p>commitment of consideration: “a user has promised to pay for the selected game object”</p> <p>consideration: see above</p> <p>ordering the at least one selected game object without interrupting the gaming action of the at least one user: “ordering a game object without causing or making a break in the user’s ability to continue playing the game”</p> <p>’445 Patent at Abstract, Fig2, Fig3, Fig 4, fig 4A, fig 5; col. 1:30-2:46; 2:50-3:44; 3:54-58; 5:30-38; 5:51-6:26; 6:44-47; 7:62-10:36.</p> <p>’445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			<p>Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 6/17/02 Amendment & Response, p. 10, 12; 3/18/03 Office Action, pp. 4-5; 6/9/03 Appellant's Brief, pp. 2-3; 9/4/03 Examiner's Answer, pp.5-6; 9/7/04 Reply, pp.10-21; 11/12/04 Office Action, pp. 2, 5; 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner's Reason's for Allowance, pp. 1-7.</p> <p>WEBSTER'S II NEW COLLEGE DICTIONARY (2001) "interrupt": "1. To break the harmony or continuity of."</p> <p>THE AMERICAN HERITAGE</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF’S PROPOSED CONSTRUCTION	DEFENDANTS’ PROPOSED CONSTRUCTION	COURT’S CONSTRUCTION
			<p>COLLEGE DICTIONARY (2000) “interrupt”: “To break the continuity or uniformity of.”</p> <p>WEBSTER’S COLLEGE DICTIONARY (1996) “interrupt”: “1. to cause or make a break in the continuity or uniformity of (a course, process, condition, etc.).”</p> <p>U.S. Patent App. 10/418,815, 3/4/10 Office Action at p. 3; 8/4/10 Response to Office Action at pp. 8-9.</p> <p>interrupting the gaming action of the at least one user: see above</p> <p>supplying the selected one game object to the at least one user without</p>	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			<p>interruption of the gaming action of the at least one user: see above</p> <p>order of claim elements: The claims require all the steps to be performed in order.</p>	
<p>17. A method of managing the operation of a game which includes a game environment and is programmed to control a gaming action of at least one of a plurality of users, said managing method using a programmed computer to effect the following steps: a) tracking the activity of the at least one user in the course of the gaming action; b) displaying in the game environment a plurality of game objects; c) creating an account for storing the consideration of the at least one user; d) permitting the at least one user to select one or more of the plurality of the displayed game objects, each game object having a set price; e) determining if the at least one user has sufficient consideration in its account to purchase the selected one game object and to provide an indication thereof; f) presenting to the at least one user an offer to purchase the game object dependent upon a group of game parameters comprising the tracked activity of the at least one user, and the indication that the one user has sufficient consideration in its account to purchase the selected game object at the set price; g) permitting the at least one user to purchase the at least one game object at the set price without interrupting the gaming action of the one user;</p>	N/A	<p>gaming action: see above</p> <p>consideration: see above</p> <p>creating an account for storing the consideration of the at least one user: “creating an account for storing a consideration balance of the at least one user” [Agreed.]</p> <p>account: see above</p> <p>purchase: see above</p> <p>permitting the at least one user to purchase the at least</p>	<p>gaming action: see above</p> <p>consideration: see above</p> <p>creating an account for storing the consideration of the at least one user: “creating an account for storing a consideration balance of the at least one user”</p> <p>’445 Patent at Abstract, Fig 1B, Fig2, Fig 3, fig 4, Fig 4A, Fig5; col. 1:17-26; 1:30-2:46; 2:60-3:25; 3:27-33; 3:45-64; 4:58-5:2; 5:13-17; 5:30-38; 6:27-54; 7:8-11; 7:42-44; 7:62-10:36, Claims 14, 16, 18,</p>	<p>gaming action: see above</p> <p>consideration: see above</p> <p>creating an account for storing the consideration of the at least one user:</p> <p>account: see above</p> <p>purchase: see above re purchase</p> <p>permitting the at least one user to purchase the at least one game object . . . without interrupting the gaming action of the one user: see</p>

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
and h) supplying at least one purchased game object to the at least one user without interrupting the gaming action of the at least one user and incorporating the game object into the game.		<p>one game object . . . without interrupting the gaming action of the one user: see above</p> <p>supplying the selected one game object to the at least one user without interruption of the gaming action of the at least one user: see above</p> <p>order of claim elements: There is no requirement that steps need to be performed in any order, except that, as a matter of common sense: (1) activity must be tracked before there is an offer to purchase a game object dependent upon a group of game parameters comprising the tracked activity; (2) an account must be created before a determination of sufficient consideration in an account to</p>	<p>19.</p> <p>'445 FH 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 6/17/02 Amendment & Response, p. 10, 12; 3/18/03 Office Action, pp. 4-5; 6/9/03 Appellant's Brief, pp. 2-3; 9/4/03 Examiner's Answer, pp.5-6; 9/7/04 Reply, pp.10-21; 11/12/04 Office Action, pp. 2, 5 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner's Reason's for Allowance, pp. 1-7.</p> <p>account: see above</p>	<p>above</p> <p>supplying the selected one game object to the at least one user without interruption of the gaming action of the at least one user: see above</p> <p>order of claim elements:</p>

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
		purchase is made; (3) a purchase price for a game object must be set before an offer to purchase a game object can be presenting to a user dependent upon the indication that the one user has sufficient consideration in its account to purchase the selected game object at the set price, or before permitting a user to purchase a game object at a set price; and (4) a game object must exist at the time it is supplied and incorporated into a game.	<p>purchase: see above</p> <p>permitting the at least one user to purchase the at least one game object . . . without interrupting the gaming action of the one user: see above</p> <p>supplying the selected one game object to the at least one user without interruption of the gaming action of the at least one user: see above</p> <p>order of claim elements: The claims require all the steps to be performed in order.</p>	
18. A method of claim 17, wherein there is included the further steps of: a) testing the eligibility of the at least one user to participate in the gaming action ; and b) said eligibility testing comprises the following sub steps: i) permitting the at least one user to select at least one of a plurality of game objects, ii) setting the purchase price of the at least one game object, and iii) comparing the committed	N/A	<p>gaming action: see above</p> <p>purchase: see above</p> <p>order of claim elements: See claim 17 above. As for claim</p>	<p>gaming action: see above</p> <p>purchase: see above</p> <p>order of claim elements: The claims require all the steps to</p>	<p>gaming action: see above</p> <p>purchase: see above</p> <p>order of claim elements:</p>

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF’S PROPOSED CONSTRUCTION	DEFENDANTS’ PROPOSED CONSTRUCTION	COURT’S CONSTRUCTION
consideration with the set price of the at least one game object and, if the committed consideration is not less than the set price, permitting the at least one user to participate in the gaming action .		18, there is no requirement that steps need to be performed in any order, except that, as a matter of common sense: (1) a game object must exist before it is selected; and (2) a purchase price must be set before it can be compared to the committed consideration.	be performed in order.	